IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of.:		§		
		§		
	Hanan KEREN et al	§		
		§		
Serial No.:	10/556,483	§		
		§		
Filed:	November 14, 2005	§	Group Art Unit:	3735
		§		
For:	SYSTEM, METHOD AND APPARATUS FOR MEASURING BLOOD FLOW AND BLOOD VOLUME	§		
		§	Attorney Docket:	**30811**
Examiner:	Patricia C. MALLARI	§		

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTIFICATION OF NON-COMPLIANT RESPONSE

Sir:

This is in response to the United States Patent and Trademark Office Notice of Non-Compliant Response dated June 2, 2009, which response is being made on or before July 2, 2009, and for which no extension of time fee is due.

By said Notice, Applicant was advised that the previous election was not fully responsive, because it failed to address the election of species.

Applicant submits that the election dated March 11, 2009 properly addressed the restriction requirement, since it included election of a group and species.

The Examiner was contacted on June 11, 2009, and it was pointed out to her that the response was fully responsive. The examiner concurred that the Notification of June 2, 2009 was issued in error, but nonetheless suggested that a written response be filed thereto to avoid any possibility that the application be declared abandoned on the grounds of not responding to the Notification of June 2, 2009.

Accordingly, Applicant resubmits the substantive content of the election previously filed:

In re Application of: Hanan KEREN et al
Serial No.: 10/556,483
Filed: November 14, 2005
Office Action Mailing Date: June 2, 2009

Examiner: PATRICIA C. MALLARI
Group Art Unit: 3735
Attorney Docket: 30811

RESPONSE TO RESTRICTION REQUIREMENT

In Response to the restriction requirement Applicants hereby elect:

Group I, claims 75-116 drawn to a system for measuring blood flow in an organ,

Species A1, claim 84, drawn to a system which further comprises a pacemaker operable to control a heart rate of the subject, and

Species B2, claim 79, drawn to a system in which the remaining portion of the mixed radiofrequency signal is digitized.

It is noted that claims 121 and 127 are directed to the subject matter of species B2 and A1, respectively, and belong to Group II.

REMARKS

The present Office Action restricts the claims into two different groups. Applicants elect Group I (claims 75-116) with **traverse**. Restriction is only proper when there is a serious search burden on the Examiner and the inventions are independent. MPEP § 803 (I) describes the criteria for restricting between patentably distinct inventions. For example, the MPEP states that:

> *There are two criteria for a proper requirement for restriction between patentably distinct inventions:*
>
> *(A) The inventions must be independent (see* MPEP § 802.01, § 806.06, § 808.01*) or distinct as claimed (see* MPEP § 806.05 - § 806.05(j)*); and*
>
> *(B) There would be a serious burden on the examiner if restriction is not required (see* MPEP §803.02,§808, *and* §808.02*).*

Moreover, MPEP § 803 (II) states that the Examiner must provide appropriate information related to indicate a serious search burden, or show that the inventions belong to different classes or to different fields for the restriction to be proper. In the present case, the examiner provides a general statement that U.S. Patent Nos. 5,642,734 and 6,076,393 show that there is a lack of a single unifying novel inventive